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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,852	03/05/2002	Tsangto Chai	WNPLS-002A	5125
33197	7590	03/16/2004	EXAMINER	
STOUT, UXA, BUYAN & MULLINS LLP				
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IRVINE, CA 92618				
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,852

Applicant(s)

CHAI, TSANGTO

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because the "vertical axis VA" as described in the specification is labeled "HA" in the Drawings [note fig. 10 for example]. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informality: On page 10, lines 1-5, the specification refers to non-existent Figures 13-14. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 & 11-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 15-16, the phrase "the exertion of downward pressure the top of the hub assembly" is confusing and not properly understood as presently worded [should this be "pressure applied to the top of the hub assembly ?]. In claim 2, line 2, the phrase "further comprising hinged joints formed the pole members between" is confusing and not properly understood as presently worded [should this be "hinged joints are formed on the pole members" ?]. Consequently, the remaining claims are rendered rejected because they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-9 & 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Watts. Smith (figures 1-11) teaches of a collapsible structure (fig. 1) comprising: a plurality of pole members (16 e.g.,) having top and bottom ends; an upper hub member (38) to which the top ends of the pole members are pivotally attached; a lower hub member (45) positioned below the upper hub member; a plurality of strut members (21) having inner and out ends, the outer end being pivotally attached to a pole member and the inner end being pivotally attached to the lower hub member; and a flexible covering (10) disposed upon and traversing the pole members; wherein the structure is disposable in a constructed configuration where the lower hub member is in abutment with the upper hub member (fig. 9), and a collapsed configuration where the lower hub member is spaced a distance below the upper hub member (fig. 10), the pole members being close together when in the collapsed position. The pole members having hinged joints between their top and bottom ends (see fig. 2 for example) allowing the poles to be folded when in the collapsed configuration, as best understood by the examiner. The inner ends of the strut members being elevated above the outer ends of the members [appears slightly elevated] when the structure is in the constructed configuration, wherein an application of a downward pressure on the upper hub would cause the inner ends of the strut members to move to positions below the outer ends as readily apparent to the examiner.

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At least one pull cord (37) attached to the lower hub member and extending upwardly through the upper hub member (fig. 10) such that the pulling of the cord pulls the lower hub member closer to the upper hub member. The covering comprises a woven fabric i.e., canvas. The covering is attached to the strut members via the hinged joints connected to the pole members as best understood by the examiner. The pole members bow to an arcuate configuration when in the constructed configuration (fig. 9). An entry opening formed in the fabric having a removable panel (both depicted in fig. 3).

Smith teaches applicant's claimed inventive structure as disclosed above, but does not show the hub members as being separable when downward pressure is applied to the top of the hub assembly. However, Watts (figures 1-9) teaches of a collapsible structure (10) in an analogous art, wherein the exertion of downward pressure upon the top of a hub assembly (15) will cause the structure to assume its collapsed configuration (bottom of col. 6). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the structure of Smith so as to employ a means to easily knockdown the structure as taught by Watts because this arrangement would allow the structure of Smith to be easily collapsed by utilizing a quick pushing movement on the hub assembly by the user.

As to claim 7, Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the covering as being made of plastic. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to manufacture the covering, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

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Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the covering as having channels for receiving the pole members. However, Watts (figures 1-9) teaches of a collapsible structure having a covering element (52) utilizing channels (57-59) for receiving poles (17) in an analogous art. The channels being spaced apart to form "cut-out" regions allowing the poles to be folded. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the covering channels as taught by Watts because this type of covering arrangement would provide Smith with a more secure covering fastening structure since the poles would be inserted within portions of the covering while the "cut-out" portions would still enable the encased poles to be folded as originally designed.

7. Claims 1-5, 7, 9 & 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beder. Beder (figures 1-13) teaches of a collapsible structure (fig. 11) comprising: a plurality of pole members (6 e.g.,) having top and bottom ends; an upper hub member (3") to which the top ends of the pole members are pivotally attached; a lower hub member (8") positioned below the upper hub member; a plurality of strut members (9) having inner and out ends, the outer end being pivotally attached to a pole member and the inner end being pivotally attached to the lower hub member; and a flexible covering (col. 7, line 10) disposed upon and traversing the pole members; wherein the structure is disposable in a constructed configuration where the lower hub member is in abutment with the upper hub member (fig. 11), and a collapsed configuration where the lower hub member is spaced a distance below the upper hub member (fig. 12), the pole members being close together when in the collapsed position. The pole members having hinged joints between their top and

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bottom ends (see fig. 12 for example) allowing the poles to be folded when in the collapsed configuration, as best understood by the examiner. The inner ends of the strut members being elevated above the outer ends of the members [see fig. 11] when the structure is in the constructed configuration, wherein an application of a downward pressure on the upper hub would cause the inner ends of the strut members to move to positions below the outer ends as readily apparent to the examiner. At least one pull cord (24) attached to the lower hub member and extending upwardly through the upper hub member (fig. 13) such that the pulling of the cord pulls the lower hub member closer to the upper hub member. The covering comprises a plastic sheet [see col. 7]. The covering is attached to the strut members via the hinged joints connected to the pole members as best understood by the examiner. The pole members bow to an arcuate configuration when in the constructed configuration (fig. 11). An entry opening formed in the fabric having a removable panel (both depicted in fig. 4 for example - the panel being formed along the L-shaped zipped portion). A zipper (clearly depicted in fig. 11) for closing the entry opening.

Beder teaches applicant's claimed inventive structure as disclosed above, but does not show the hub members as being separable when downward pressure is applied to the top of the hub assembly. However, Watts (figures 1-9) teaches of a collapsible structure (10) in an analogous art, wherein the exertion of downward pressure upon the top of a hub assembly (15) will cause the structure to assume its collapsed configuration (bottom of col. 6). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the structure of Beder so as to employ a means to easily knockdown the structure as taught by

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Watts because this arrangement would allow the structure of Beder to be easily collapsed by utilizing a quick pushing movement on the hub assembly by the user.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Watts and further in view of Beder. The prior art teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the panel as be attached via a zipper [it appears that Smith utilizes a snap button arrangement]. However, Beder (figure 11) teaches of a collapsible structure wherein the entry opening is secured via a zipper. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the closure means of the prior art so as to employ a zipper as taught by Beder because a zipper would seal off the entry opening quicker and more effectively (no spaced gaps) than a snap button arrangement.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Watts and further in view of Zheng '246. The prior art teaches applicant's inventive claimed concept as disclosed above, but does not specifically show a plurality of like structures connected by a tunnel. However, Zheng (figure 12) teaches the use of a tunnel (82 e.g.,) to connect like structures (90 & 96 e.g.,) as being old and well known in the art. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ multiple structures and then connect them together as taught by Zheng because this arrangement [use of a tunnel between like structures] would allow multiple structures to be interconnected thus extending the enclosed space.

10. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Watts and Zheng and further in view of Rehbein. The prior art teach applicant's

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inventive claimed concept as disclosed above, but do not specifically show the covering as having prescribed indicia. However, Rehbein (figures 1-15) teaches of a collapsible structure having a covering element (figs. 14 for example) utilizing graphic indicia. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the covering of the prior art so as to incorporate indicia on the covering because this feature would enhance the aesthetic properties of the structure. Furthermore, where the printed matter is not functionally related in a new or unobvious way to the substrate upon which it is located, the printed matter will not distinguish the invention from the prior art in terms of patentability. Accordingly, it is not believed that the claimed printed matter (decoration) in fact establishes any new or unobvious function relationship to the substrate upon which is located. Instead, it appears that the printed matter is merely carried by the substrate and provides ornamentation thereto (lacking a new or unobvious functional relationship), as such, the claimed printed matter is not germane to patentability and therefore does not represent a difference or distinction over the prior art.

Allowable Subject Matter

11. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action **and to include all of the limitations of the base claim and any intervening claims.**

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Contrary to applicants assertion, the previously cited prior art to Watts does teach the claimed limitation of exerting

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downward pressure onto the top of a hub assembly so as to cause an upper and lower hub assembly to separate thereby facilitating the collapse of the structure.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

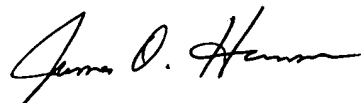
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
March 12, 2004